

REMARKS

I. PRELIMINARY REMARKS

A minor amendment has been made to the specification. No claims have been added or amended. Claims 10, 11 and 16-21 have been canceled. Claims 1-9 and 12-15 remain in the application. Reexamination and reconsideration of the application, as amended, are respectfully requested.

Claim 10, 11 and 16-21 were referred to in the Office Action as if they are pending. Applicant notes for the record that claims 10, 11 and 16-21 were canceled by preliminary amendment when the present application was filed. [Note page 2 of the "Request for a Continuing Application Under 37 CFR 1.53(b)" form that was submitted on August 1, 2003 with the present application.] To the extent that the preliminary amendment was not entered, claims 10, 11 and 16-21 are hereby canceled.

II. DOUBLE PATENTING REJECTIONS

Claims 1-15 and 17 have been rejected under the judicially created doctrine of obviousness-type double patenting. As noted above, claims 10, 11 and 17 were canceled by preliminary amendment. The obviousness-type double patenting rejection of claims 10, 11 and 17 is therefore moot. Applicant respectfully submits that the obviousness-type double patenting rejection of claims 1-9 and 12-15 has been obviated by the Terminal Disclaimer attached hereto.¹

Claims 16 and 18-21 have been rejected under 35 U.S.C. § 101 for "same invention" double patenting. As noted above, claims 16 and 18-21 were canceled by

¹ Applicant notes for the record that the filing of a Terminal Disclaimer serves only to remove the obviousness-type double patenting rejection and raises neither a presumption, nor an estoppel, with respect to the merits of the rejection. See *Quad Environmental Technologies v. Union Sanitation District*, 20 USPQ2d 1393, 1394-95 (Fed. Cir. 1991).

preliminary amendment. The "same invention" double patenting rejection of claims 16 and 18-21 is therefore moot.

III. CLOSING REMARKS

In view of the foregoing, it is respectfully submitted that the claims in the application are in condition for allowance. Reexamination and reconsideration of the application, as amended, are respectfully requested. Allowance of the claims at an early date is courteously solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call applicant's undersigned representative at (310) 563-1458 to discuss the steps necessary for placing the application in condition for allowance.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 08-2025. Should such fees be associated with an extension of time, applicant respectfully requests that this paper be considered a petition therefor.

Respectfully submitted,

October 13, 2006

Date

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